

**New Hampshire Department of Revenue Administration  
109 Pleasant Street, Concord, NH 03301**

**TECHNICAL INFORMATION RELEASE  
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A Technical Information Release is designed to provide immediate information regarding tax laws administered by the Department or the policy positions of the Department as a service to taxpayers and practitioners. A Technical Information Release represents the position of the Department on the limited issues discussed herein based on current law and Department interpretation. For the current status of any tax law, practitioners and taxpayers should consult the source documents (i.e., Revised Statutes Annotated, Rules, Case Law, Session Laws, etc.). Questions should be directed to Taxpayer Services at (603) 230-5920.

**Electronic Cigarettes Taxable under the RSA 78 Tobacco Tax Effective January 1, 2020**

The New Hampshire Legislature has passed and Governor Sununu has signed into law House Bill 4 (Chapter 346, Sections 92 through 94, Laws of 2019), which makes electronic cigarettes taxable under the RSA 78 Tobacco Tax, effective January 1, 2020.

The Tobacco Tax is levied on the consumer who purchases tobacco products at retail. However, the tax is pre-collected and paid by the wholesaler of the tobacco products. Wholesalers pay the tax on cigarettes by purchasing stamps from the New Hampshire Department of Revenue Administration (DRA) and affixing the stamps to the cigarette packages prior to transferring the cigarettes to a New Hampshire retailer. For tobacco products other than cigarettes (“other tobacco products” or OTP), such as smokeless tobacco, loose tobacco, cigars, and now electronic cigarettes, wholesalers must file monthly returns with the DRA reporting their tax liability for the collection of the Tobacco Tax on OTP transferred to New Hampshire retailers in the prior month.

HB 4 amends RSA 78:1, XIII to include electronic cigarettes in the definition of “tobacco products,” thereby making electronic cigarettes taxable as OTP under the Tobacco Tax. “Electronic cigarette” is defined as:

A noncombustible device regardless of shape or size that can be used to deliver aerosolized or vaporized nicotine to a person inhaling from the device, including but not limited to a device manufactured, distributed, marketed, or sold as an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, electronic hookah, vape pen, or any other similar product or device under any other product name or descriptor. The term includes any liquid or other substance containing nicotine that is intended to be used with or in such a device, including in a closed cartridge or container that is not intended to be opened.

HB 4 provides that electronic cigarettes are OTP, but subject to a tax rate that differs from that applicable to other OTP. Electronic cigarettes that are so called “closed cartridge” devices or containers that are not intended to be opened will be taxed at a rate of \$0.30 per milliliter on the volume of the liquid or other substance containing nicotine in the cartridge or container. Electronic cigarettes that are “open system” devices or containers intended to be opened will be

taxed at a rate of 8% of the wholesale sales price of the container of liquid or other substance containing nicotine.

The Tobacco Tax must be pre-collected and paid along with the filing of monthly returns by every wholesaler that ships or transports electronic cigarettes to New Hampshire retailers. Also, every manufacturer, wholesaler, retailer, and sampler in the business of selling or distributing electronic cigarettes in New Hampshire must register with the New Hampshire Secretary of State, obtain a license issued by the DRA or the New Hampshire Liquor Commission under RSA 178, as applicable, and otherwise comply with the RSA 78 Tobacco Tax law.

Additional information about the Tobacco Tax can be obtained by referencing RSA 78 and N.H. Code of Admin. Rules, Rev 1000, which can be accessed on the Department's [website](#). Questions should be directed to the Department's Tobacco Tax Group by calling (603) 230-4359 or in writing to the New Hampshire Department of Revenue Administration, Tobacco Tax Group, P.O. Box 1388, Concord, NH 03302-1388.

*Individuals who need auxiliary aids for effective communication in programs and services of the Department of Revenue Administration are invited to make their needs and preferences known to the N.H. Department of Revenue Administration, 109 Pleasant Street, Concord, NH 03301 or by contacting them at (603) 230-5920.*